

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

**IN RE TRANSPACIFIC PASSENGER
AIR TRANSPORTATION ANTITRUST
LITIGATION**

Civil Case No. 3:07-cv-05634-CRB-DMR

MDL No. 1913

This Document Relates to:

All Actions

**STIPULATION AND ORDER RE
PLAINTIFFS' RESPONSE TO SUMMARY
JUDGMENT MOTIONS AND HEARING
DATE**

1 Whereas, several Defendants have filed motions for summary judgment arguing that the
2 filed rate doctrine precludes damage claims in this Court;

3 Whereas, Plaintiffs will file responses to those motions;

4 Whereas, on December 23, 2013, counsel for Defendant China Airlines, Ltd. (“CAL”) and
5 Plaintiffs filed a joint letter brief in which Plaintiffs seek an order quashing a third-party subpoena
6 to the Airline Tariff Publication Co. (“ATPCO”). *See* Dkt. No. 806.

7 Whereas, on January 14, 2014, counsel for Defendant All Nippon Airways Co., Ltd.
8 (“ANA”) and Plaintiffs filed a joint letter brief regarding a discovery dispute concerning whether
9 ANA should produce its Chief Executive Officer, Osamu Shinobe, for deposition. *See* Dkt. No.
10 816.

11 Whereas, on January 15, 2014, counsel for Defendant EVA Airways Corporation
12 (“EVA”) and Plaintiffs filed a joint letter brief in which Plaintiffs request that EVA be ordered to
13 provide a further response to Plaintiffs’ Fourth Set of Interrogatories to EVA, Interrogatory No. 1,
14 relating to the filed rate doctrine. *See* Dkt. No. 819.

15 Whereas, on January 15, 2014, counsel for Defendant Philippine Airlines Inc. (“PAL”) and
16 Plaintiffs filed a joint letter brief in which Plaintiffs request that PAL be ordered to provide a
17 further response to Plaintiffs’ Fourth Set of Interrogatories to PAL, Interrogatory No. 1, relating
18 to the filed rate doctrine. *See* Dkt. No. 820.

19 Whereas, other defendants similarly situated to EVA and PAL in regards to their
20 responses to the same interrogatory at issue above have agreed to be bound by the resolution of
21 the motions concerning EVA and PAL.

22 Whereas, the Court set the hearing on these discovery motions for January 28, 2014, at
23 1:00 p.m. *See* Dkt. No. 821.

24 Whereas the Parties are using their best efforts to complete fact discovery in this matter,
25 including depositions, by the fact discovery deadline of January 31, 2014.

26 Whereas Plaintiffs have entered into stipulations with certain Defendants that,
27 notwithstanding Plaintiffs’ and those Defendants’ best efforts, certain of the Parties’ depositions
28 may occur after January 31, 2014, for the convenience of the Parties and in the interests of justice.

1 Whereas, to that end, the Parties have scheduled 18 depositions of the Parties and one
2 non-party deposition during the last week of January and seven depositions of the Parties during
3 the first week of February.

4 Whereas counsel for Defendant PAL will be in the Philippines during the week of January
5 27, 2014, preparing for five depositions scheduled during the week of February 3, 2014.

6 Whereas, the Court's clerk has indicated that the Court has availability on February 13,
7 2014, at 3:30 p.m. to hear the motions concerning CAL, EVA, PAL, and ANA.

8 Whereas, the motions concerning EVA and PAL and the other defendants who are
9 similarly situated to EVA and PAL, bear on Plaintiffs' responses to Defendants' motions for
10 summary judgment on the filed rate doctrine.

11 Whereas, Plaintiffs' response to the summary judgment motions is presently scheduled for
12 February 18th, 2014.

13 Whereas, Plaintiffs need sufficient time after the resolution of the aforementioned motions
14 to respond to the summary judgment motions.

15 Now therefore, counsel for Plaintiffs and counsel for defendants Air New Zealand, ANA,
16 Cathay, CAL, EVA, PAL, Qantas and Singapore Airlines hereby stipulate as follows:

17 In the event that the Court grants Plaintiffs' motion and orders EVA and PAL to provide
18 further responses to the interrogatory at issue, Plaintiffs' response to the various summary
19 judgment motions shall be due one week after EVA and PAL and any other similarly situated
20 defendant provide such supplemental interrogatory answers. In no case, however, shall Plaintiffs'
21 response to the summary judgment motions be due prior to March 3, 2014.

22 If the Court denies Plaintiffs' motion to compel further responses by EVA and PAL,
23 Plaintiffs' response to the summary judgment motions shall be due on March 3, 2014.

24 If Plaintiffs do not file a declaration in support of their response to the summary judgment
25 motions, Defendants shall file their reply papers within 59 days of Plaintiffs' response;

26 If Plaintiffs do file one or more declarations in support of their response to the summary
27 judgment motions, Defendants shall file their reply papers on May 1, 2014 or 28 days after the
28 last declarant in support of Plaintiffs' response to the summary judgment motions is deposed,

1 whichever is later.

2 The parties shall meet and confer after the filing of Plaintiffs' response to the summary
3 judgment motions regarding deposition dates for any declarants and a hearing date for the
4 summary judgment motions.

5
6 Dated: January 27, 2014

Respectfully submitted,

8 /s/ Steven N. Williams

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9 Joeseeph W. Cotchett

10 Steven N. Williams

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11 *Interim Co-Lead Counsel for Plaintiffs*

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13 /s/ Christopher L. Lebsock

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17
18 Dated: January 27, 2014

By:

/s/ Joseph A. Meckes

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19 Joseph A. Meckes

20 *Counsel for Defendant China Airlines*

21
22
23
24
25 Dated: January 27, 2014

By:

/s/ Ankur Kapoor

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Dated: January 27, 2014 By: /s/ Tammy A. Tsoumas

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Dated: January 27, 2014 By: /s/ Todd Miller

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Dated: January 27, 2014 By: /s/ Michael Holland

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Counsel for Air New Zealand Limited

Dated: January 27, 2014 By: /s/ William Sherman

LATHAM & WATKINS LLP

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Counsel for Singapore Airlines Limited

SO ORDERED.

Dated: January 29, 2014

